

# **STAKING A MINING CLAIM ON FEDERAL LANDS**



**INFORMATION BULLETIN No. 4 - 76**

# 2282438  
ID: 88315416

## WHAT IS A MINING CLAIM?

The words "claim" or "mining claim" have a definite meaning when used in connection with United States mining laws. These words refer to a particular piece of land, valuable for specific mineral deposits, to which an individual has asserted a right of possession for the purpose of developing and extracting a discovered mineral deposit. This right is granted the miner if he meets the requirements of the General Mining Law of 1872 which applies to all locatable minerals. This law guarantees the miner protection for all lawful uses of his claim for mining purposes, and sets the limits of his rights; if the requirements of the law are not met, no rights against the Federal government exist.

## WHERE MAY I PROSPECT?

There are still areas where you may prospect, and if a discovery of a valuable, locatable mineral deposit is made, you may stake a claim. These areas are mainly in the Western States and include Alaska, Arizona, Arkansas, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Such areas are mainly on unreserved, unappropriated National Resource Lands administered by the Bureau of Land Management, U.S. Department of the Interior, and unreserved, unappropriated public domain land in National Forests administered by the Forest Service, U.S. Department of Agriculture.

Although much of the National Resource and National Forest Lands in the West are open to prospecting under the General Mining Law, most of the total acreage does not contain valuable mineral deposits.

Public land records in the proper Bureau of Land Management office will show you which lands are closed to prospecting and mining. These offices keep up-to-date land status maps that are available to the public for inspection.

The Bureau also is publishing a series of surface and mineral ownership maps that provide the general ownership pattern of public lands. However, for a specific tract of land, it is still advisable to check the official land records.

Information concerning unpatented mining claims — those for which no deed has been issued or title passed to the claimant — usually is not available from the Bureau of Land Management or the Forest Service offices. These claims are usually recorded or filed in the County Recorder's office in the county in which the claims are located.

INFO WO 76-70 (1).

## WHICH FEDERAL LANDS ARE CLOSED TO MINING?

Generally, the National Parks and most National Monuments are closed to mining as are Indian reservations, most reclamation projects, military reservations, scientific testing areas, some wildlife protection areas such as Federal wildlife refuges, and lands segregated under the Classification and Multiple Use Act. Lands withdrawn for power purposes are subject to mining location and entry under certain conditions.

Certain lands reserved from the public domain under the jurisdiction of the Forest Service and the Bureau of Land Management are also off limits to mineral exploration and development under the General Mining Laws by act of Congress or by public land order. No mining claims can be located on such lands as long as such a directive is in effect.

These closed areas are said to be "withdrawn" from mining location and entry. As mentioned earlier, the public land records in the proper BLM office will show you which public lands are withdrawn. It is important that you do not attempt to locate and remove minerals from these withdrawn lands. Not only would your work be wasted, but such activities would be a trespass against the Government and subject to penalties.



17D  
221  
.L46  
1976  
no. 4  
C. 2

## **WHAT DO I DO IF THE SURFACE OR MINERALS ARE PRIVATELY OWNED?**

If the mineral estate on which you wish to prospect is privately-owned, the minerals rights must be obtained from the owner through purchase or lease.

The surface estate on some lands (i.e., those that were available under the Stockraising Homestead Act) have been patented to private individuals or agencies with a reservation of some or all of the mineral rights to the Federal Government. Unless these lands are withdrawn, they are open to mineral location and entry subject to certain restrictions or requirements.

## **WHAT TYPES OF MINERALS MAY BE CLAIMED?**

For purposes of mining laws, minerals are classified as locatable, leasable or salable. Only locatable mineral deposits may be staked and claimed under the General Mining Law. Locatable minerals include both metallic (gold, silver, lead, etc.) and nonmetallic (fluorspar, asbestos, mica, etc.) minerals.

Salable mineral materials may not be located under the mining laws but may be purchased under the Materials Sales Act of 1947. These include the common varieties of sand, stone, gravel, pumice, pumicite, cinders and clay. These materials may be purchased at their fair market value, either at competitive or negotiated sales. Petrified wood is not subject to location under the mining laws. Small amounts may be removed free of charge by hobbyists for noncommercial use. Larger amounts may be purchased. A free-use permit may be issued to any Federal or State agency, unit or subdivision, without limitation as to the number of permits or as to the value of the materials to be extracted, provided the applicant makes a satisfactory showing to the authorized officer that such materials will be used for public purposes. A free-use permit also may be issued to a non-profit organization.

There are other minerals and fuels that may be leased from the Federal Government and may not be claimed under the mining laws. These leasable minerals are oil and gas, oil shale, geothermal resources, potash, sodium, native asphalt, solid and semi-solid bitumen, bituminous rock, phosphate, coal and in Louisiana and New Mexico, sulphur. All minerals on certain lands, such as acquired lands and areas offshore are subject to special leasing laws and regulations.





## **WHEN MAY I LOCATE A MINING CLAIM?**

Anyone who is a United States citizen or has declared an intention to become a citizen may locate a mining claim. A mining claim may be validly located and held only after a valuable mineral deposit has been discovered. The courts have established and the Government follows the "prudent man" test to determine what is a "discovery of a valuable mineral." The rule states that "where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in further expenditure of his labor and means, with a reasonable prospect of success in developing a valuable mine," the requirements of the statute have been met. Environmental costs and economic factors are important considerations in applying the "prudent man" test.

Although there is no limit to the number of claims you may hold, there must be an actual physical discovery on each and every mining claim. Traces, minor indications, geological inference, or hope of a future discovery are not sufficient to satisfy the "prudent man" rule. Making mining improvements, posting a notice or performing annual assessment work will not create or perpetuate a "right" or interest in the land if there are no valuable minerals within the claim.

## WHAT TYPES OF MINING CLAIMS ARE THERE?

There are four types of mining entries:

1. *Lode Claims*. Deposits subject to lode claims include classic veins or lodes having well-defined boundaries. They also include other rock in-place bearing valuable minerals and may be broad zones of mineralized rock. Examples include quartz or other veins bearing gold and other metallic minerals and low grade disseminated copper deposits.

2. *Placer Claims*. Deposits subject to placer claims are all those not subject to lode claims. These include the "true" placer deposits of sand and gravel containing free gold (such as has accumulated in the unconsolidated sediment of a stream bed) and also include many non-metallic bedded deposits.

3. *Mill Site*. A mill site is a plot of unappropriated public domain land of a non-mineral character, suitable for the erection of a mill, or reduction works. Mill sites may be located under either of the following circumstances:

a. when used or occupied distinctly and explicitly for mining and milling purposes in connection with the lode or placer location with which it is associated.

b. for a quartz mill or reduction works unconnected with a mineral location.

4. *Tunnel Sites*. A tunnel site is located on a plot of land where a tunnel is run to develop a vein or lode, or to discover a vein or lode. Tunnel sites cannot be patented.

Additional information on types of mining claims may be obtained by consulting the regulations.

## WHAT IS THE SHAPE AND SIZE OF EACH TYPE OF MINING CLAIM?

1. Lode claims are usually parallelograms with the longer side lines parallel to the vein or lode. They are located by metes and bounds (giving length and direction of each boundary line). They are limited by statute to a maximum of 1,500 feet in length along the vein or lode and 300 feet on either side of the lode.

2. Placer claims, where practicable, are located by legal subdivision (a legal subdivision is a part of a section, for example the SE $\frac{1}{4}$  Section 10, Township 10 South, Range 20 East, Willamette Meridian). They are limited to 20 acres per claim per locator. However, an association of two locators may locate 40 acres, and three may locate 60 acres, etc. The maximum area is 160 acres for eight persons. Each locator should have a bona fide interest in the claim; otherwise he might be considered a "dummy" locator and lose his rights. Corporations are limited to 20-acre claims. On

unsurveyed land and in certain other instances, placer claims may be located by metes and bounds.

3. Mill sites are located by metes and bounds or by legal subdivision, and are limited in size to 5 acres per claim.

4. Tunnel sites are located by placing two stakes 3,000 feet apart on the line of the proposed tunnel. The miner may locate lode claims to cover any or all veins intersected by the tunnel. This in essence gives the miner the right to prospect in an area 3,000 feet by 3,000 feet.

## **SHOULD I TAKE ANY PRECAUTIONS IN LOCATING A MINING CLAIM?**

It is essential that you use caution when examining potential mining claim sites and when entering old abandoned tunnels and shafts. Much of the public lands contain old mine workings that can be hazardous. BLM personnel are making an effort to identify and eliminate these hazards but the task is an immense one and far from being completed. Therefore, it is important that prospectors be aware of these potential dangers and exercise care in their activities.

In addition, when working your claim and locating structures and improvements on the land, remember that the natural and scenic beauty of Federal lands are enjoyed and appreciated by all citizens. Try to consider these aesthetic values and to exercise good manners in the operation, maintenance, and reclamation of your claim site.

## **HOW DO I STAKE AND RECORD A MINING CLAIM?**

Federal law specifies only that claim boundaries be distinctly and clearly marked so as to be readily identifiable. Each State, though, has statutes and regulations supplementing the General Mining Law and detailing requirements for staking and recording mining claims. It is advisable that you check with appropriate State agencies (i.e., State geological surveys or mineral resource departments) before attempting to locate your claim. Failure to comply with Federal and/or State regulations may invalidate your claim and subject you to civil or criminal penalties.

As a general rule, staking a mining claim includes erecting corner posts or monuments, plus posting notice of location on a post or monument in a conspicuous place — usually the point of discovery.

Recording of mining claims usually involves filing an exact copy of the location notice in the County Recorder's office in the county in which the claim is

located. Location notices generally contain the following information: date, name of locator(s), name of claim(s), whether the mining claim is a lode or placer, mineral(s) claimed, the acreage claimed, and either the legal descriptions by parts of the section, township and range or a connection by distance and direction as accurately as practicable from the discovery point to some well-known, permanent natural object such as an established survey monument, a hill, bridge, fork of a stream or road intersection.

In addition to recording a location notice in the County Recorder's office, a written notice of any claim in a National Forest Wilderness must be sent to the Forest Supervisor or District Ranger's office within 30 days after location.

### **ARE THERE OTHER SPECIAL REGULATIONS PERTAINING TO MINING ON NATIONAL FOREST LANDS AND WILDERNESS AREAS?**

The Government has the right to manage the surface and surface resources on most mining claims on National Forest lands, as prescribed in the Act of July 23, 1955.

Several acts of Congress have modified the General Mining Laws applicable to certain areas of National





Forest land. In these areas, the locator of a mining claim obtains only such rights as the law prescribes.

According to the Wilderness Act of September 3, 1964, the mining laws and leasing laws apply to the National Forest lands, designated by the Act as "wilderness" until the end of 1983, to the same extent as they applied prior to September 3, 1964. Mining on these lands, and on all National Forest lands, is subject to the provisions of the law and regulations of the Secretary of Agriculture (36 CFR 252), relating to activities carried out under the authority of the mining law. These regulations require that anyone whose proposed operation could cause "significant disturbance of surface resources," must submit an operating plan. The operating plan should describe the nature of the proposed disturbance and the steps that will be taken to protect surface resources. Miners wishing to prospect or locate claims in National Forests are encouraged to contact the local District Ranger concerning any questions about operating plans.

## **HOW DO I MAINTAIN A MINING CLAIM?**

Once a valid mining claim is established, you must perform \$100 worth of labor or improvements each year (beginning September 1) to verify an active interest in the claim. A statement that the annual assessment work has been done should be recorded in the County Recorder's office in the county where



the claim is located. Although there is no absolute Federal requirement that assessment work be recorded, it is often advisable as a means of protecting your rights to the claim against subsequent intervening rights (i.e., other prospectors who may try to "jump" or relocate your claim). Many States do require that assessment work be recorded, so it is also advisable that you check State laws.

### **WHAT RIGHTS DO I OBTAIN FROM MY MINING CLAIM?**

If you perform and record the annual assessment work and meet all other requirements of Federal and State mining laws, you establish a possessory right to the mining claim for purposes of developing and extracting minerals.

### **ARE THERE ANY RESTRICTIONS ON MINING ACTIVITY ONCE A CLAIM HAS BEEN LOCATED?**

On unpatented mining claims, a mining claimant may use only as much of the surface and surface resources as are reasonably necessary to carry out mining operations and may not build any structures unless they are reasonably related to mining activities. The Federal Government maintains the right to manage the surface and surface resources, including use of the area for recreational purposes that do not interfere with mining activity.

The mining laws give locators and owners of mining claims the right of entry and exit across public lands as a necessary incident to their mining activity for purposes of removing minerals and maintaining their claims. This privilege does not mean that the miner has a right to cause unreasonable damage to public lands under the guise of gaining access to his claim. The miner would be liable in damages if he unnecessarily caused loss or injury to United States' property. For these reasons, vehicles used for mining purposes are not permitted in areas that are temporarily or permanently closed. Off-road vehicles in areas designated as restricted must conform to all terms and conditions of restrictions limiting the number and type of vehicles and times of use. Designations of restricted and closed areas are made by the authorized officer, identified by public notice in newspapers, and posted in the proper BLM office.

### **MAY I BUY A MINING CLAIM?**

A valid mining claim may be bought or sold, willed or inherited. However, if a mining claim is invalid (i.e., no discovery of a valuable mineral deposit has been



made, using the “prudent man” test) or is otherwise defective, the claim is not made valid or valuable by being bought or sold.

A great deal of unwise speculation has resulted from activities of unethical or misinformed “promoters” who, for a fee, purport to stake mining claims and do annual assessment work for others. Most of these claims are located in areas of rapid expansion and changing land values. More often than not, these claims have absolutely no value for minerals and are invalid. These promoters are not a part of the mining industry and should not be confused with the legitimate miners or prospectors who are diligently prospecting for minerals and who may occasionally wish to sell a valid claim to others for development.

## **TO PATENT OR NOT TO PATENT?**

A patented mining claim is one for which the Federal Government has given a deed or passed its title to the claimant. A valid unpatented mining claim is one for which the claimant has obtained the right to extract and remove minerals from the land due to the discovery of a valuable mineral deposit under the mining laws, but to which the claimant has not acquired full title.

It is not necessary to have a patent to mine and

remove minerals from a valid mining claim, but a patent will give you exclusive title to the locatable minerals and in most cases, to use of the surface and all other resources. Since the claimant does not hold full title to an unpatented mining claim, the government may, at any time, question or challenge its validity. If the government's challenge is successful, your claim will be cancelled and you will forfeit all rights to the claim.

As with any mining claim, patenting requires a discovery of a valuable mineral deposit such as satisfies the "prudent man" test. In addition, the applicant needs to have the claim surveyed by a mineral surveyor selected from a roster maintained by the BLM, post and publish a notice of intention to apply for a patent for a 60-day period, and pay a nonrefundable \$25 filing fee. Evidence of a right of possession to the claim and the basis of the right to patent, including discovery of a valuable mineral deposit and proof that not less than \$500 has been expended for the development of each claim, will also need to be shown. Finally, if all these requirements have been satisfied, the applicant must also pay a purchase price of \$5 per acre for lode claims and \$2.50 per acre for placer claims, and he will receive full title to the land and its minerals.

Requirements for patenting a mining claim are outlined and explained in a circular available from the BLM.

### **WHERE CAN I GET MORE INFORMATION?**

The Bureau of Land Management, Department of the Interior, has the primary responsibility for administering the laws and regulations regarding the disposal of minerals from public lands. Statutory authority is derived from the Mining Law of 1872, which together with the regulations and court decisions that have interpreted it, are called the General Mining Law. The regulations are available in circular form from the Bureau of Land Management (Circular No. 2289; Title 43, Code of Federal Regulations, Section 3800). The Law itself (Title 30, United States Code, Sections 21-54) is not available in circular form but may be examined in most Bureau of Land Management offices or in your public library. For information concerning regulations and location of National Resource Lands open to mining in specific areas, we suggest you contact the proper Bureau of Land Management office. These offices, and their area of jurisdiction, are listed at the end of this bulletin. For information regarding National Forest Lands, you should contact the appropriate Forest Service office also listed.



The Interior Department's U.S. Geological Survey publishes many topographic and geologic maps and reports. The central source of information about these maps and related materials is the National Cartographic Information Center, U.S. Geological Survey, National Center, Reston, Virginia 22092. For areas east of the Mississippi River, maps may be purchased from the Branch of Distribution, U.S. Geological Survey, 1200 South Eads Street, Arlington, Virginia 22202, and for areas west of the Mississippi River, from the Branch of Distribution, U.S. Geological Survey, Federal Center, Denver, Colorado 80225.

Information concerning places where minerals may be sent for identification is distributed by the Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15313 (Information Circular No. 7695).

Information concerning State mining laws and regulations which supplement the General Mining Law, plus information concerning the geology of specific areas in a State, can be obtained through State geological surveys or mineral divisions.

More information may be obtained from the following BLM State offices:

**Southern Portion of Alaska:**

Alaska State Office  
555 Cordova Street  
Anchorage, Alaska 99501

**Northern Portion of Alaska:**

Fairbanks District Office  
1028 Aurora Drive, P.O. Box 1150  
Fairbanks, Alaska 99707

**Arizona:**

Arizona State Office  
Federal Building, Room 3022  
Phoenix, Arizona 85025

**California:**

California State Office  
Federal Building, Room E-2841  
2800 Cottage Way  
Sacramento, California 95825

**Colorado:**

Colorado State Office  
Colorado State Bank Building  
1600 Broadway  
Denver, Colorado 80202

**States lying east of the Mississippi River and the States of Iowa, Minnesota, Missouri, Arkansas, and Louisiana:**

Eastern States Office  
7981 Eastern Avenue  
Silver Spring, Maryland 20910

**Idaho:**

Idaho State Office  
Federal Building, Room 398  
550 West Fort Street  
P.O. Box 042  
Boise, Idaho 83724

**Montana, North Dakota, and South Dakota:**

Montana State Office  
Federal Building & U.S. Courthouse  
316 North 26th Street  
Billings, Montana 59101

**Nevada:**

Nevada State Office  
Federal Building, Room 3008  
300 Booth Street  
Reno, Nevada 89502

**Oklahoma, New Mexico and acquired land in Texas:**

New Mexico State Office  
U.S. Post Office & Federal Building  
P.O. Box 1449  
Santa Fe, New Mexico 87501

**Oregon and Washington:**

Oregon State Office  
729 N.E. Oregon Street  
P.O. Box 2965  
Portland, Oregon 97208

**Utah:**

Utah State Office  
Federal Building  
125 South State  
P.O. Box 11505  
Salt Lake City, Utah 84111

**Wyoming, Kansas and Nebraska:**

Wyoming State Office  
Federal Center  
2120 Capital Avenue  
P.O. Box 1828  
Cheyenne, Wyoming 82001

## **U.S. FOREST SERVICE REGIONAL OFFICES**

### **Northern Region**

Federal Building  
Missoula, Montana 59801

### **Rocky Mountain Region**

11177 West Eighth Avenue, Box 25127  
Lakewood, Colorado 80225

### **Southwestern Region**

Federal Building  
517 Gold Avenue, S.W.  
Albuquerque, New Mexico 87102

### **Intermountain Region**

Federal Building  
324 25th Street  
Ogden, Utah 84401

### **California Region**

630 Sansome Street  
San Francisco, California 94111

### **Pacific Northwest Region**

319 S.W. Pine Street  
P.O. Box 3623  
Portland, Oregon 97208

### **Southern Region**

Suite 800  
1720 Peachtree Road, N.W.  
Atlanta, Georgia 30309

### **Eastern Region**

636 West Wisconsin Avenue  
Milwaukee, Wisconsin 53203

### **Alaska Region**

Federal Office Building  
P.O. Box 1628  
Juneau, Alaska 99502



**U.S. DEPARTMENT OF THE INTERIOR**  
**Bureau of Land Management**

☆ U.S. GOVERNMENT PRINTING OFFICE : 1976 O-212-788

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, D.C. 20402 - Price 35 CENTS

Stock Number 024-011-00064-0  
Catalog Number I 53.2:M66/4/976